

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7599 to 7601, 8051, 7594 to 7596, 6558,  
7602, 7603, 7604, 7605, 7515, 7516, 8150 to 8152 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI  
and  
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

NATVARLAL SAKALCHAND SHAH  
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Appearance:

Mr Vipul M Pancholi, AGP for Petitioners  
MR RN SHAH for Respondent No. 1  
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CORAM : MR.JUSTICE M.H.KADRI  
and  
MR.JUSTICE D.P.BUCH

Date of decision: 29/06/2000

ORAL [COMMON] JUDGMENT [per. Kadri, J.]

By way of filing this group of First Appeal under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') read with Section 96 of the Code of Civil Procedure, 1908, the appellants have challenged the common judgment and award passed by the learned Civil Judge (S.D.), Godhra, District Panchmahals dated 13.4.1999 in Land Acquisition Reference No.381,380,387, 382, 375,376,377, 388, 392,395, 393, 396, 394, 397, 398, 399,400, 378,379, 391.385, 386 of 1994 by which the Reference Court awarded additional compensation at Rs.12/- for the acquired lands of the appellants situated at Village Gariyal, Taluka Halol, District Panchmahals. As common questions of facts and law are involved in this group of First Appeals, we propose to dispose them of by this common judgment.

2. The Executive Engineer, Dev Canal Irrigation Scheme sent proposal for acquisition of the agricultural land situated at village Gariyal, Taluka Halol for public purpose of Dev Canal Irrigation Scheme. The said proposal was scrutinized by the State Government and notification to acquire lands of the appellants came to be issued under Section 4(1) of the Act which came to be published in the Government Gazette on 15.10.1987 and 2.6.1988. After following the usual procedure, declaration under Section 6 of the Act was published in the Government Gazette on 7.3.1989 and offered compensation at the rate of Rs.1.75 paise per sq. metre for the lands which were acquired by notification dated 15.10.1987 at the rate of Rs.2/- per sq. metre for the lands which were acquired by notification dated 2.6.1988. The respondents, feeling aggrieved by the awards made by the Land Acquisition Officer, filed application under Section 18 of the Act requiring the Land Acquisition Officer to refer their applications to the District Court, Panchmahals at Godhra for determination of the market value of the acquired lands. Accordingly the said applications were referred to the District Court which came to be numbered as LAR Cases numbers as mentioned above. The Reference Court placing reliance on the previous award granted in LAR No.118/92 and other allied matters, determined the market value of the acquired lands which was the subject matter of the notification dated 15.10.1987 at the rate of Rs.11.75 paise and for the acquired lands of notification dated 2.6.1988 at the rate of Rs.12/- per sq. metre which has been challenged by the appellants in this group of First Appeal.

3. Learned Advocates for the appellants and the respondents have taken us to the entire Records and Proceedings of the Reference Court. Having heard the

learned Advocates for the parties, we are of the opinion that the Reference Court has not committed any error in placing reliance on the previous award rendered in LAR No.118/92 wherein the market value of the acquired lands of the same village was determined at Rs.10.81 as on January 7, 1982. The lands of previous award Exh.18 and the present acquired lands were having same fertility. The Reference Court had given rise in price at 5% per annum for the determination of market value of the year 1982 and awarded interest to the claimants which, in our view is fair and reasonable compensation. Previous award rendered in LAR No.118/92 was confirmed by this High Court. The appellants had challenged the judgment of the High Court in the Supreme Court by filing SLP which also came to be dismissed and copy of the order of the Supreme Court is produced at Exh.20. Therefore, the previous award had become final. Previous award Exh.18, in all respects, relevant and comparable with the present acquired lands and the Reference Court was justified in placing reliance on previous award rendered in LAR No.118/92.

4. Claimant Mr Natverlal Shah has deposed that the claimants were getting income of Rs.5000/- per bigha out of sale of agricultural produce from the acquired lands. The acquired lands situate only 8 kms. from Halol Town. That the village Gariyal was having school, electricity, bus stand etc. He further deposed that the acquired lands of previous award Exh.18 was in all respects relevant and comparable with the present acquired lands. We have gone through the relevant documents and copy of the documents placed by the appellants and the respondents. The claimants have led sufficient evidence to approve that the acquired lands of previous award Exh.18 were in all respects relevant and comparable for determining the market value of the present acquired lands. The market value of the acquired lands of previous awards Exh.18 were confirmed upto the state of Supreme Court. The determination of the market value by the Reference cannot be called excessive and, therefore, we confirm the determination of the market value of the acquired lands at Rs.11.75 paise and Rs.11.50 paise per sq. metre as on 15.10.1987 and at the rate of Rs.12/per sq. metre as on 2.6.1988. The statutory benefits extended in favour of the respondents do not call for any interference by this Court.

5. As a result of the foregoing discussion, this group of appeals are dismissed. The market value of the present acquired lands situated in village Gariyal is determined at the rate of Rs. 11.75 paise and Rs.11.50

paise per sq. metre as on 15.10.1987 and at the rate of Rs.12/- per sq. metre as on 2.6.1988. The claimants shall be entitled to statutory benefits under Section 23(1-A) and 23(2) and interest under Section 28 of the Act. However, it is clarified that the claimants shall not be entitled to solatium on the additional amount payable under Section 23(1-A) and no interest shall be paid on the amount of solatium as per the decision of the Supreme Court in the case of Prem Nath Kapur v. National Fertilizers Corporation of India (1996 (2) SCC 71). In the facts and circumstances of the case, there shall be no order as to costs.

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msp.